

**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY**

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Writ Petition No. 26546 of 2006

Between

M/s Vikrampuri Co-operative House Building Society Ltd., ..Petitioner
Secunderabad

AND

The Secunderabad Cantonment Board and others ..Respondents

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:: JUDGMENT ::

Counsel for the petitioner

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Sri P.Srinivas

Counsel for respondent No.1

Sri Deepak Bhattacharjee

Counsel for respondents 2 to 5

Sri A.Rajasekhar Reddy, Assistant
Solicitor General

22.12.2006

Per G.S.Singhvi, CJ

In this petition, the petitioner has prayed for issue of a direction to Secunderabad Cantonment Board (for short, the Board') to demolish the alleged illegal construction made by respondent Nos.6 to 9 on Plot No.C-2, Vikrampuri Colony, Secunderabad. It has been further prayed that respondent Nos.6 to 9 be restrained from alienating the alleged illegal structures and the Board be directed to seal Plot No.C-2 and stop all further activities on the said plot.

In the affidavit filed by him, Shri W.V. Ramana, Secretary of the petitioner society has averred that despite the objections raised by the society against the construction of commercial structure on Plot No.C-2, which is a residential plot, respondent Nos.6 to 9 have erected a huge commercial complex and that too in complete violation of the sanctioned plan. In paragraphs 4 and 5 of his affidavit, Shri W.V. Ramana has given the details of the so-called violation of the sanctioned plan. In paragraph 6, he has referred to the civil suit filed by Shri A. Ananta Krishna Rao whose plot and house is situated on the northern side of Plot No.C-2 and averred that even though III Senior Civil Judge, City Civil Court, Secunderabad passed an order of injunction on 24-11-2005, respondent Nos.6 to 9 did not stop the construction activity.

We have heard Shri P.Srinivas, learned counsel for the petitioner and perused the record. In our opinion, the writ petition is liable to be dismissed because the petitioner has already got itself impleaded as party in the civil suit filed by Shri A. Ananta Krishna Rao, which is registered as O.S.No.936 of 2005 and is pending in the Court of III Senior Civil Judge, City Civil Court, Secunderabad. Not only this, the interim order passed by the Civil Court on 24-11-2005 restraining the private respondents from raising construction is still operative. If the petitioner finds that the order of injunction is being violated, then it can avail appropriate legal remedy for seeking enforcement of order dated 24-11-2005 passed by the Civil Court.

The other reason for our disinclination to entertain the prayer

made by the petitioner is that effective alternative remedies are available to the petitioner by way of appeal and revision under Sections 340 and 343 of the Cantonment Act, 2006 (for short, 'the Act') and there is no extraordinary reason for making a departure from the settled rule that the High Court will not entertain a petition under Article 226 of the Constitution of India, if an effective alternative remedy is available to the petitioner.

With the above observation, the writ petition is dismissed leaving the petitioner free to avail the alternative remedies under Sections 340 and 343 of the Act.

As a sequel to dismissal of the writ petition, WPMP Nos.34100 and 34101 of 2006 filed by the petitioner for interim reliefs are also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

22-12-2006

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